

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ERIC MENDOZA,

Plaintiff,

v.

9:05-cv-1124

M. MCGINNIS, et al.,

Defendants.

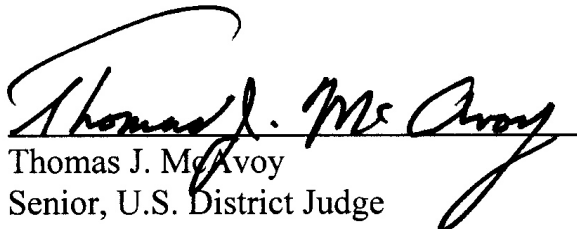
THOMAS J. McAVOY
Senior United States District Judge

DECISION and ORDER

This matter brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. David E. Peebles, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). No objections to the February 22, 2007 Report-Recommendation have been raised. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation for the reasons stated therein and it is hereby ORDERED that Defendants' motion to dismiss or, in the alternative, for a more definite statement is DENIED, and it is further ORDERED that the action be dismissed without prejudice as to Defendant J. Scobble, T. Whendon, (f/n/u) Presier, and P. Miller for failure to effectuate service within the time period specified in FED. R. CIV. P. 4(m).

IT IS SO ORDERED.

Dated: March 14, 2007


Thomas J. McAvoy
Senior, U.S. District Judge